

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

Duhjuan L Miller,

Plaintiff,

V.

Cox Communication, *et. al.*,

Defendants.

Case No. 2:23-cv-00587-RFB-BNW

ORDER

10 *Pro se* Plaintiff Duhjuan Miller brings this lawsuit and moves to proceed *in forma*
11 *pauperis* (“IFP”). ECF No. 2. Plaintiff submitted the affidavit required by 28 U.S.C.
12 § 1915(a) showing an inability to prepay fees or costs or give security for them. Accordingly, the
13 Court will grant his request to proceed *in forma pauperis*.

14 The Court now screens Plaintiff's complaint (ECF No. 2-2).

I. Analysis

A. Screening Standard

17 Upon granting a request to proceed *in forma pauperis*, a court must screen the complaint
18 under 28 U.S.C. § 1915(e)(2). In screening the complaint, a court must identify cognizable claims
19 and dismiss claims that are frivolous, malicious, fail to state a claim on which relief may be
20 granted, or seek monetary relief from a defendant who is immune from such relief. 28 U.S.C.
21 § 1915(e)(2). Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard
22 for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668
23 F.3d 1108, 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must “contain sufficient
24 factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Ashcroft v.*
25 *Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes *pro se* complaints and may only
26 dismiss them “if it appears beyond doubt that the plaintiff can prove no set of facts in support of
27 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.
28 2014) (quoting *Iqbal*, 556 U.S. at 678).

1 In considering whether the complaint is sufficient to state a claim, all allegations of
2 material fact are taken as true and construed in the light most favorable to the plaintiff. *Wyler*
3 *Summit P'ship v. Turner Broad. Sys. Inc.*, 135 F.3d 658, 661 (9th Cir. 1998) (citation omitted).
4 Although the standard under Rule 12(b)(6) does not require detailed factual allegations, a plaintiff
5 must provide more than mere labels and conclusions. *Bell Atlantic Corp. v. Twombly*, 550 U.S.
6 544, 555 (2007). A formulaic recitation of the elements of a cause of action is insufficient. *Id.*
7 Unless it is clear the complaint's deficiencies could not be cured through amendment, a *pro se*
8 plaintiff should be given leave to amend the complaint with notice regarding the complaint's
9 deficiencies. *Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

10 **B. Screening the Complaint**

11 Plaintiff's complaint is essentially void of any factual allegations. *See* ECF No. 2-2. He
12 alleges a contract-type dispute and breach of fiduciary duties but does not specify what facts give
13 rise to those allegations. *See id.* Even liberally construing Plaintiff's complaint, it does not state
14 sufficient factual allegations about the underlying dispute and the defendants' role in the matter to
15 state a claim.

16 If Plaintiff chooses to file an amended complaint, the document must be titled "Amended
17 Complaint." The amended complaint must contain a short and plain statement of the grounds for
18 the Court's jurisdiction. *See* Fed. R. Civ. P. 8(a)(1). Additionally, the amended complaint must
19 contain a short and plain statement describing the underlying case and the defendant's
20 involvement in the case. *See* Fed. R. Civ. P. 8(a)(2). Although the Federal Rules of Civil
21 Procedure adopt a flexible pleading standard, Plaintiff still must give each defendant fair notice of
22 his claims against it and of Plaintiff's entitlement to relief.

23 Additionally, Plaintiff is advised that if he files an amended complaint, the original
24 complaint (ECF No. 2-2) no longer serves any function in this case. As such, the amended
25 complaint must be complete in and of itself without reference to prior pleadings or other
26 documents. The Court cannot refer to a prior pleading or other documents to make Plaintiff's
27 amended complaint complete.

1 Lastly, Plaintiff must include factual allegations demonstrating the dispute involves more
2 than \$75,000 in controversy.¹

3 **II. Conclusion**

4 **IT IS THEREFORE ORDERED** that Plaintiff Duhjuan Miller's application to proceed
5 *in forma pauperis* (ECF No. 2) is GRANTED.

6 **IT IS FURTHER ORDERED** that the Clerk of Court must detach and separately file
7 Plaintiff's complaint (ECF No. 2-2).

8 **IT IS FURTHER ORDERED** that Plaintiff's complaint is dismissed without prejudice.

9 **IT IS FURTHER ORDERED** that if Plaintiff wishes to file an amended complaint, he
10 must do so by May 20, 2023. Failure to comply with this order will result in a recommendation
11 that this case be dismissed.

13 DATED: April 20, 2023

15 
16 BRENDA WEKSLER
17 UNITED STATES MAGISTRATE JUDGE

27

¹ Federal district courts have original jurisdiction over civil actions in diversity cases "where the matter in
28 controversy exceeds the sum or value of \$75,000" and where the matter is between "citizens of different
States." 28 U.S.C. § 1332(a).